

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA

v.

OKELLO T. CHATRIE,

Defendant.

Case No. 3:19-cr-00130-MHL

SUPPLEMENTAL DECLARATION OF MARLO MCGRUFF

I, Marlo McGriff, respectfully submit this declaration in regard to the above-captioned matter to supplement my prior declaration, filed on March 11, 2020. ECF No. 96-1. I make this declaration based on my knowledge of the facts stated herein.

1. I reviewed the testimony of Spencer McInville, Mr. Chatrie's advisory witness, ECF No. 81 ("McInville Testimony"), and the video exhibit Mr. McInville presented as Exhibit 4 during the January 21, 2020 hearing as to Mr. Chatrie's Motion for Discovery Regarding the Government's Use of Google's Sensorvault Data ("McInville Video").

2. As explained in my prior declaration, enabling the Location History ("LH") service requires a Google user to take multiple steps. ECF No. 96-1 at 2.

3. One of those steps, as referenced at ECF No. 96-1 at Paragraph 9, is that the user must opt in to LH in her account settings. LH is disabled in account settings by default, and LH remains disabled unless and until the user enables it.

4. Until recently, a user could enable LH in her account settings during account creation, which can occur during device setup. An example of this is depicted in the McInville

Video (at 2:50-3:17) and the McInville Testimony (at 50-52). During his testimony, Mr.

McInville did not enable LH during account creation. *See* McInville Testimony at 51-52, 53.

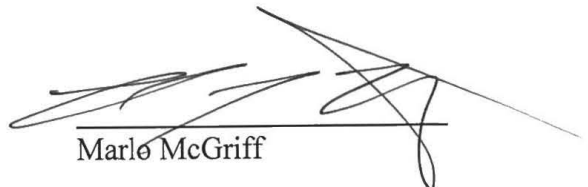
5. A user may also enable LH in her account settings through an app that has LH-powered features, such as the Google Maps app. An example of this is partially depicted in the McInville Video (at 4:38-4:45) and the McInville Testimony (at 55-57). During his testimony, Mr. McInville opened the Google Maps app and was shown a screen stating “Get the most from Google Maps” with two choices: “YES, I’M IN” or “SKIP” as depicted in the last screen at the end of the McInville Video (at 4:45); *see* McInville Testimony at 56-57.

6. The McInville Video ended at that step, without depicting what would happen if the user tapped on “YES, I’M IN.” McInville Video at 4:45 (stopping at the “Get the most out of Google Maps” screen).

7. By 2017 at the latest, it was not possible for a user to enable LH solely by tapping on “YES, I’M IN” as depicted on the final screen in the McInville Video. Instead, a user who tapped on “YES, I’M IN” when prompted would be presented with a second opt-in screen. Only by opting in via that second screen could the user successfully enable LH for her account. Sensorvault rejects LH opt-ins from unsupported flows or devices. Accordingly, Sensorvault would have rejected any attempted opt-in through the manner described by Mr. McInville, and LH would not have been successfully enabled.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of JUNE 2020, in SAN FRANCISCO.


Marlo McGriff